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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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Notice of Availability of the Record of Decision for the Previously Issued Oil and Gas Leases in the White River National Forest, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) has prepared a Record of Decision (ROD) based on the analysis in the “Previously Issued Oil and Gas Leases in the White River National Forest Final Environmental Impact Statement (EIS).” That EIS addressed the treatment of 65 previously issued oil and gas leases on lands within the White River National Forest (WRNF). By this notice the BLM is announcing the availability of the ROD. On November 17, 2016, the BLM Colorado State Director signed and the Deputy Secretary of the Department of the Interior approved the ROD.

ADDRESSES: Copies of the ROD are available for public inspection at the BLM Colorado River Valley Field Office, 2300 River Frontage Road, Silt, CO 81652. Interested persons may also review the ROD on the project website at https://eplanning.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do.

FOR FURTHER INFORMATION CONTACT: Greg Larson, Project Manager, at the address above, by telephone at (970) 876-9000, or by email at glarson@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business

hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM has developed the Previously Issued Oil and Gas Leases in the White River National Forest EIS (Previously Issued Leases in the WRNF EIS) to address a National Environmental Policy Act (NEPA) deficiency identified by the Interior Board of Land Appeals (IBLA) related to the issuance of oil and gas leases on WRNF lands between the years of 1995 to 2004. In 2007, the IBLA ruled that before including WRNF parcels in an oil and gas lease sale, the BLM must either formally adopt the NEPA analysis completed by the U.S. Forest Service (USFS) or conduct its own NEPA analysis (Board of Commissioners of Pitkin County, 173 IBLA 173 (2007)). The BLM canceled the three leases at issue in that case and identified 65 additional leases with effective dates ranging from 1995 to 2012 that the BLM had leased without either adopting applicable USFS NEPA, or preparing its own NEPA analysis. For these 65 existing leases, the most recent USFS decision to make these lands available for oil and gas leasing was analyzed and put forth in the USFS's 1993 Oil and Gas Leasing EIS and ROD. The USFS then adopted its 1993 Oil and Gas Leasing EIS in its 2002 White River National Forest Land and Resource Management Plan.

While the BLM obtained USFS consent before offering and subsequently issuing the 65 leases at issue, it did not adopt the USFS' NEPA analysis or prepare its own analysis. As a result, the BLM determined that the issuance of the leases in question was not in compliance with applicable NEPA requirements, rendering the leases voidable. The BLM therefore determined that additional actions were necessary to reaffirm, modify, or cancel those leases. As part of that determination, the BLM determined that the available USFS

NEPA analysis relevant to the 65 leases was no longer adequate due to changes in laws, regulations, policies and conditions since that analysis was finalized in 1993. As a result, the BLM prepared the Previously Issued Leases in the WRNF EIS to determine whether these 65 leases should be cancelled, reaffirmed, or modified with additional or different terms. The ROD announced by this Notice is based on that EIS analysis.

Distinct from this effort, the USFS recently updated its 1993 Oil and Gas Leasing EIS to address future oil and gas leasing availability on WRNF lands and issued a new EIS, the White River National Forest Oil and Gas Leasing Final Environmental Impact Statement (USFS WRNF Oil and Gas Leasing EIS), in December 2014. The USFS signed their Final ROD for this new EIS in December 2015. The recently issued USFS EIS and ROD are forward-looking and do not affect the 65 previously issued leases that the BLM is reexamining; however, the information generated as part of that process was relevant to the BLM's analysis. Therefore, as part of its process, the BLM has incorporated the new USFS analysis into its analysis of the previously issued leases, to the extent practicable. The BLM considered six alternatives in the Previously Issued Leases in the WRNF EIS, including a No Action Alternative. The No Action Alternative would reaffirm the lease stipulations on the 65 leases as they were issued. Under this alternative, the BLM would take no action by continuing to administer the leases with their current stipulations. Alternative 2 would address inconsistencies in some of the existing leases by adding stipulations identified in the USFS 1993 Oil and Gas Leasing EIS that were not attached to eight leases when they were issued. Alternative 3 would modify the 65 leases to match the stipulations identified for future leasing in the 2014 USFS WRNF Oil and Gas Leasing Final EIS Proposed Action. Alternative 4 (BLM's Proposed Action) would modify or

cancel the 65 leases to match the stipulations and availability decision in the USFS ROD. In areas the USFS identified as open to future leasing, stipulations would be modified to track those found in the most recent USFS decision and all or part of 25 existing leases in areas identified as closed would be cancelled. Alternative 5 would cancel all 65 leases. For purposes of the BLM's Previously Issued Oil and Gas Leases in the WRNF Final EIS, the BLM identified a combination of Alternatives 2 and 4 as its Preferred Alternative. Under this Preferred Alternative, the BLM would cancel in their entirety 25 leases that are not producing or committed to a unit or communitization agreement, and which overlap with the area identified as closed to future leasing by the USFS Final ROD. The BLM would apply Alternative 4 stipulations (i.e., those that were identified in the 2015 USFS ROD) to 12 undeveloped (as of Final EIS publication) leases that are within parts of the WRNF identified as open to future leasing, including one expired lease under appeal. It would apply Alternative 2 stipulations to 27 leases that were producing or committed to a unit agreement or communitization agreement as of Final EIS publication, including four expired leases currently under appeal that had previously been part of the Willow Creek Unit. In addition, one expired lease not subject to appeal would receive no decision. As with Alternative 4, the lessee would have to either accept the new stipulations or have the lease cancelled. Cancellation would be accomplished through an administrative process and would require reimbursement of bonus bids and rental payments.

The BLM released the Draft Previously Issued Leases in the WRNF EIS on November 20, 2015 (80 FR 72733), for a 49-day public comment period. During that period, the BLM held three public meetings in communities near the project area: Glenwood Springs, DeBeque and Carbondale, Colorado. The BLM received 60,515 comments during the

formal comment period. The BLM worked with cooperating agencies (including the Environmental Protection Agency; USFS; the Colorado Department of Natural Resources, including Colorado Parks and Wildlife; Garfield, Mesa, Pitkin and Rio Blanco counties; the Cities of Glenwood Springs and Rifle; and the Towns of Carbondale, New Castle, Parachute and Silt) to prepare the Previously Issued Leases in the WRNF EIS. The BLM also consulted with the U.S. Fish and Wildlife Service (Service) informally and through a Biological Assessment. In response, the Service issued a consultation memorandum on May 19, 2016, concurring with the BLM effects determinations of “may affect, but is not likely to adversely affect” for the following species: Ute ladies’-tresses orchid, Colorado hookless cactus and its critical habitat, Western yellow-billed cuckoo, Green-lineage cutthroat trout, Colorado pikeminnow and its critical habitat, Razorback sucker and its critical habitat, Humpback chub and its critical habitat, Bonytail and its critical habitat, and Canada lynx. In addition, the BLM notified the Colorado State Historic Preservation Office (SHPO) via an informational letter that, pursuant to the 2014 Protocol agreement between the BLM Colorado and the SHPO, this undertaking does not exceed any of the review thresholds requiring SHPO concurrence, and that there will be no adverse effect to historic properties. Finally, the BLM began tribal consultation for the project in April 2014 when the field manager sent a scoping letter via certified mail to the Ute Indian Tribe (Uintah and Ouray Reservation), Ute Mountain Ute Tribe, and Southern Ute Indian Tribe. Consultation and outreach continued through April 22, 2016, when the BLM sent the tribes a letter that identified the Preferred Alternative and summarized cultural resource records within the area of potential effect (including potential Traditional Cultural Properties). The letter also offered the opportunity for comments or clarifications. The BLM will continue

to offer opportunities for tribes that may be affected by potential future development of these leases as stipulated under EO 13175, November 6, 2000.

The BLM published the Notice of Availability of the Final Previously Issued Leases in the WRNF EIS in the Federal Register on August 5, 2016 (81 FR 51936). Publication of the Notice of Availability initiated a 30-day availability period. Even though there was no comment period on the Final EIS, the BLM received a number of comments, all of which were addressed in the ROD as appropriate.

The BLM's ROD for the Previously Issued Leases in the WRNF EIS implements a slightly modified version of the Preferred Alternative, which combines portions of Alternatives 2 and 4. The decision applies stipulations described under Alternative 2 (including minor updates to reflect the 1993 USFS ROD stipulations) to all leases within the analysis area that are producing or committed to a unit or agreement. For those leases within the analysis area that are not producing or committed to a unit, Alternative 4 applies (canceling or modifying leases to match the 2015 USFS Final ROD) with one exception: The decision cancels in their entirety all undeveloped leases that overlap the area identified as closed to future leasing by the USFS's 2015 Final ROD. The difference between lease cancellations under Alternative 4 in the BLM's Previously Issued Leases in the WRNF EIS and this ROD is that seven leases having acres retained under Alternative 4 are cancelled in full under the ROD. There are no partial lease cancellations. On August 15, 2016, the Middleton Creek Unit was automatically contracted, retroactively effective August 20, 2015, according to Section 2(e) of the unit agreement and as per BLM regulation at 43 CFR 3186.1. As a result of the contraction, three leases (COC67147, COC70013, and

COC70361) considered producing in the Final EIS are now considered undeveloped, and thus will be offered modified lease terms consistent with Alternative 4 of the Final EIS.

Under the BLM's Previously Issued Oil and Gas Lease ROD, 25 undeveloped leases are administratively cancelled in full, 12 undeveloped leases remain open with new stipulations applied under Alternative 4 (with lessee consent), 20 producing or committed leases are reaffirmed or modified as described under Alternative 2, four expired leases currently under appeal that had previously been part of the Willow Creek Unit (held by production) would have Alternative 2 applied if the appeal is successful, and one expired lease subject to appeal would have Alternative 4 stipulations applied if it were reauthorized. No decision is made for three leases that have expired or terminated and are not subject to appeal.

The BLM's Previously Issued Oil and Gas Lease ROD takes agency and public comments into account and best meets the BLM's mandate to protect important resources while allowing oil and gas development. For reaffirmed or modified leases, upon receiving an application to approve an action on the ground, the BLM will conduct site-specific analysis of impacts through the subsequent NEPA reviews and analyses that will be necessary before the BLM issues any permit or approval for oil and gas development.

This decision is approved by the Deputy Secretary for the U.S. Department of the Interior; therefore it is not subject to administrative appeal (43 CFR 4.410(a)(3)).

AUTHORITY: 40 CFR 1506.6, 40 CFR 1506.10

Gregory P. Shoop,

BLM Colorado Associate State Director.

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